IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 632 OF 2003

1.	Aarsiraj Damu Lengre	]
	age 25,	]
2.	Anna Bapunath Chougule	]
	age 27	]
3.	Eknath Bapunath Chougule	]
	age 25	]
	All are agriculturist &	]
	R/o. Khupasangi, Tal :	]Appellants
	Mangalwedha, Dist: Solapur	](Original
	At present in Yeroda Central	]Accused
	Prison, Pune	]Nos.1 to 3)

versus

The State of Maharashtra	]
Tulasibai Lavate	]
R/o. Village Khupasangi	]
Tal: Mangalwedha, Dist: Solapur	]Respondent

Mr. P. R. Arjunwadkar for the Appellants.

Dr. F. R. Shaikh, APP for the State.

CORAM : D. G. DESHPANDE, &
SMT. NISHITA MHATRE, JJ.

DATE : 29TH MARCH, 2007.

ORAL JUDGMENT : (Per : D. G. Deshpande, J.) :

1. This Appeal filed by the original accused Nos. 1 to 3 challenging their conviction under Section 302, 323 and 342 r/w. 34 of Indian Penal

Code, for which they are sentenced to suffer imprisonment for life and fine and other minor sentences for other two offences by the II Addl. Sessions Judge, Pandarpur, by Judgment dated 24.3.2003. All the accused are in custody.

2. We heard Advocate Mr. Arjunwadkar for the accused and Dr. F. R. Shaikh, the learned APP for the State.

3. Originally there were five accused, but accused Nos. 4 and 5 are acquitted of all the offences. Accused No.1 and acquitted accused No.5 were brothers. Accused Nos. 2 and 3 are brothers and accused No.4 is related to accused Nos. 1 and 5. Accused No.5 was joined while the evidence was in progress. Accused are alleged to have murdered Vithal Lavate, the father of P.W. 1 Pandurang Vithal Lavate and husband of P.W. 2 Tulasabai Vithal Lavate. The enemy is two fold. Firstly, on account of a dispute about the well and secondly because P.W. 1 Pandurang had love affair with the married daughter of accused No.4 Narayan Rama Lengare. Deceased Vithal was residing with his wife and son in his agricultural land at Khupasangi in a

hut, which had a cattle shed adjoining to it and on the night of 12.10.1989 and 13.10.1989 deceased Vithal was sleeping in a cattle shed. His son P.W. 1 Pandurang and P.W. 2 Tulasabai were sleeping in the adjoining house. During midnight all the accused came with deadly weapons. They assaulted deceased Vithal. The sheeps which were in the cattle shed started making noise, therefore P.W. 1 Pandurang and P.W. 2 Tulasabai woke up. The incident was two days after Dasera, therefore, there was sufficient moon light. Both P.W. 1 and 2 saw through the window that all the accused were giving blows to deceased Vithal. They came out. They were man-handled by the accused, pushed inside the house and accused bolted the door. When P.W. 1 and 2 raised the shouts. They were responded to by P.W. 5 Shivaji Sadashiv Jankar, son-in-law of the deceased Vithal who was residing at a distance of about 250 to 300 ft. therefore accused started running away with their weapons. P.W. 5 Shivaji saw all of them going away from the house of the deceased with weapons in their hands. Then all the three went to the cattle shed found that Vithal was dead having blood injuries. The matter was reported to the police. Investigation was started. FIR was

recorded. Panchnama was done. Statements were recorded. Accused were arrested, their blood stained clothes and weapons were recovered. They were sent to the C.A. and then charge sheet was filed.

4. In the trial court, P.W. 1 Pandurang son of the deceased Vithal, P.W. 2 Tulasabai - wife of deceased Vithal and P.W. 5 Shivaji - son in law of deceased Vithal, were examined. Different recoveries of incriminating articles were proved. Clothes of the accused were found with blood group of 'B' so also axe was found with blood stains of blood group 'B' and the blood group of deceased Vithal was also 'B'. Therefore, considering all that evidence, the trial court convicted accused Nos. 1 to 3 and acquitted accused Nos. 4 and 5, and, therefore, this appeal at the instance of accused Nos. 1 to 3.

5. Mr. Arjunwadkar, advocate for the accused attacked the judgment of the trial court on many grounds, firstly, according to him the motive alleged by the prosecution i.e. dispute over a well was not and should not be any motive for the accused

to assault deceased Vithal, because the accused were well armed with court order in their favour. Joint measurement was taken for avoiding the dispute and the well was found to be in their area, therefore there was no question for them to assault the deceased. Second motive attributed in this case that P.W. 1 Pandurang being in love with the married daughter of acquitted accused No.4 and he has written letter to her ever after her marriage and even after the warnings by the father of the said girl, could not be a motive for the accused to assault the deceased. Mr. Arjunwadkar contended that if at all any motive was there that would have been to eliminate P.W. 1 Pandurang and not to murder his father.

6. Thirdly, according to Mr. Arjunwadkar, P.W. 1 Pandurang and P.W. 2 Tulasabai could not have seen the incident and they were not in a position to see the incident. Evidence of P.W. 5 Shivaji that he saw the accused assailants going away from and near the house of deceased Vithal with their weapons in the hand, was totally false and unreliable. Mr. Arjunwadkar also contended that story putforth by P.W. 1 Pandurang and P.W. 2 Tulasabai that after

opening the door they came out and they were assaulted or man-handled by the accused, is nothing but a concoction to give credence to their being an eye witness of the incident.

7. Regarding the finding of blood of Group 'B' on the clothes of the accused, Mr. Arjunwadkar contended that blood group of two of the accused was also 'B'. Then his most important submission was that there were material contradictions and omissions in the evidence of P.W. 1 Pandurang and P.W. 2 Tulasabai and that they were not specific about the role to be attributed to accused nos. 1, 2 and 3 and therefore considering all the facts and circumstances, the accused were entitled for acquittal. To upset the judgment of the trial court, he also contended that the witnesses examined by the prosecution for proving different recoveries were habitual panch witnesses, finding of the blood stained clothes on the person of the accused was highly improbable because if the accused were arrested at 4 p.m. on the next day of the assault, they would not have kept the blood stained clothes on their person.

8. On the other hand, learned APP contended that the trial court has rightly convicted the accused nos. 1, 2 and 3 after scrutiny of the entire evidence. The trial court found that their testimony was strongly corroborated by recovery of blood stained clothes and weapons at the instance of the accused. So-called contradictions and omissions and/or variance in the evidence of P.W. 1 Pandurang and P.W. 2 Tulasabai did not affect their credibility. Their evidence was corroborated by P.W. 5. Since the incident has taken place two days after Dasera, it was a full moon day and therefore there was sufficient light. All the accused were intimately known to P.W. No. 1 Pandurang, P.W. 2 Tulasabai and P.W. 5 Shivaji, and there could not be any difficulty on the part of P.W. 1, 2 and 5 in identifying the known persons, namely, the accused. He contended that the story of assault given by P.W. Nos. 1 and P.W. 2 fully corroborated by the medical evidence. The spot panchnama was supported by the story of P.W. 1 and P.W. 2 and therefore there were no reasons to interfere with the judgment of the conviction of accused Nos. 1 to 3.

9. We have given our anxious consideration to the submissions made by both the sides.

10. About the finding of the trial court that deceased Vithal died a homicidal death no dispute was raised before us. In the Post Mortem report and in the evidence that has been adduced by the prosecution, deceased Vithal had on his person, following three incised wounds and abrasions:

> **1. Incised wound - at lateral aspect (left side of neck extending from front of lt. ear to accipuse meninges (coverings) of brain seen, Bones of this region cut-opened. Lt. ear broken;**
>
> **2. Incised wound on left cheek 3" x2" x 1".**
>
> **3. Bluish black discolourisation on chest right side extending from Rt. mammary gland to medial end of claricle on palpation ribs of Rt. side 4th, 5th and 6th rib observed.**
>
> **4. Abrasion at knees superficial.**

Cause of death given is cardio respiratory arrest secondary to haemorrhaegic shock due to multiple injuries. Admittedly, these injuries were not self inflicted neither they are incidental nor any such argument was made before us or before the trial court and therefore the findings of the trial court that deceased Vithal met homicidal death is not

required to be changed or upset.

11. Since P.W. 1 Pandurang - son of deceased Vithal, P.W. 2 Tulasabai wife of deceased Vithal and P.W. 5 Shivaji - brother in law of deceased Vithal, are important witnesses for the prosecution. it is necessary to scrutinise their evidence. In his evidence, P.W. 1 has stated that on that day of the incident, he and his mother were sleeping in the house, father was sleeping in the cattle shed which was adjoining the house. At about 12 night he heard the voice of cattle, he and his mother peeped out through the window and on the northern side of the house. he heard sounds of assault and father crying "died died". Through the window both of us saw all the four accused and accused No.5 Sitaram i.e. acquitted accused assaulting Vithal. Then he and his mother came out when accused Nos. 1 and 2 came towards them, accused No.2 assaulted his mother with stick and accused No. 1 tried to press his throat. His sister and her husband P.W. 5 Shivaji gave a call that they were coming. Then accused Nos. 1 and 2 pushed him and his mother inside the house, they bolted the house and ran away. Again, through the window on the eastern side P.W. 1 saw and found

that Aarsiraj - accused No.1 had an axe, and Anna - accused No.2 had a stick. Narayan - acquitted accused No.4 had iron rod. He could not see what were the weapons in the hands of accused No.3 Eknath and acquitted accused No. 5 Sitaram. All he saw in the moon light. Thereafter his sister and brother in law arrived there, opened the outer door, then all of them went to the father who was lying in the pool of blood, he was unable to talk and father died there.

12. In paragraph 3 of his examination in chief, this witness has stated that there was a dispute about well between his father and Damu Biru Lengare - father of accused No.1. He went to Mangalwedha Police station and lodged report as per Exhibit 21. He also stated that when accused No.1 tried to press his throat, he stated that his father was killed, he also gave further threats.

13. The witness further stated that his supplementary statement was recorded by the police on the next day wherein he gave the name of acquitted accused No.4 Narayan as one of the more assailants of his father and then he has stated how

there was illicit relationship between him and Durpadabai - the daughter of Narayan and how threats were given to him by Phulabai - mother of Durpadabai. In cross-examination P.W. 1 stated that accused ran towards east after bolting the door from outside and that the house of his sister on the south east side but at about half furlong from their house, there was no other house in the vicinity of the house of the deceased Vithal. He has admitted that he left for Mangalwedha between 8 to 8.30 p.m. on the next day because there was no S.T. facility and the house of the accused were on way. His supplementary statement was recorded after one and half months. He disclosed the name of acquitted accused No.4 Narayan. He identified the weapons, namely, the axe, stick and cycle chain and iron rod and stated that cycle chain was with Eknath - accused No.3.

14. He denied the suggestion in the cross examination that there was a S.T. bus at 7 a.m. to go to Mangalwedha from his village. He admitted the dispute regarding well, the lands were measured, well was in a dilapidated condition, but he denied that after the measurement, the well was found in

the land of Damu Lengre - father of accused No.1.

15. Further in the cross-examination, the witness stated that beating incident continued for 15-20 minutes. The assailants were on all four sides of his father, then he changed his version and stated that they were on two sides. There are certain important omissions brought out by the defence in his cross-examinatiuon. Omissions are to the effect that accused Nos. 1 and 2 came upon his person and accused No.2 assaulted his mother with stick. There is no mention that accused No.1 tried to press his throat in his FIR. There is no mention that accused No.1 was armed with axe, accused No.2 Anna was armed with stick, acquitted accused No.4 Narayan was armed with iron rod and accused No.3 Eknath was armed with cycle chain. All these things he has stated to the police but they were absent. A suggestion was given to him that unknown people killed his father.

16. Thereafter prosecution relied upon the evidence of P.W. 2 Tulasabai - wife of deceased Vithal. She has stated that on that night she was sleeping and her son was sleeping in the house.

Deceased Vithal was sleeping in neighbouring hut near sheeps. Sheeps were shouting, therefore she and P.W. 1 Pandurang peeped out through the window. They saw 5 men assaulting Vithal with axe, stick, iron rod and cycle chain. Husband was asked for help and the assailants were accused No. 1 Aarsiraj, accused No.2 Anna, accused No.3 Eknath, acquitted accused No.4 Narayan and acquitted accused No. 5 Sitaram. All this was seen in the moon light.

17. P.W. 2 further states that she herself opened the door, came out, then accused No.1 Aarsiraj and accused No. 2 Anna came to them, accused No.2 Anna gave blow on her right arm and accused No.1 Aarsiraj caught throat of Pandurang. She shouted loudly thinking that they will be killed and then she heard call of her daughter and son-in-law were coming. Thereafter accused No.1 Aarsiraj and accused No.2 Anna pushed them inside the house, bolted the door from outside and ran away towards east. They saw this through the eastern side window. Thereafter, daughter Shantabai and P.W. 5 Shivaji came and opened the door.

18. She identified all the accused, identified the weapons, Axe - Article No. 12, stick - Article No. 13, iron rod - Article No. 16 and chain Article No.3. She identified the clothes of her husband banian and dhoti. She admitted that her son Pandurang had love affair with the daughter of acquitted accused No.4 Narayan. Nothing much is brought in the cross-examination but she admitted that because of the dispute over the well, the land was measured and Damu - father of accused Nos. 1 and 2 took well in their possession and he was irrigating the land from that well. She asked Damu to allow her to take well water because of water shortage in the village. Damu refused which she did not like. She also stated that her husband was also assaulted for about 10 minutes and she was shouting during all this period. She was confronted with this statement before the police wherein she admitted that she did not tell the police that four persons were assaulting her husband. She also could not give explanation why the name of Sitaram was absent in her statement. She stated that her statement came to be recorded 2 - 4 days after the incident.

19. Against the aforesaid evidence of P.W. 1 Pandurang and P.W. 2 Tulasabai, Mr. Arjunwadkar contended that the story given by these witnesses, does not inspire confidence. Firstly, because there was no sufficient light, secondly because deceased Vithal was being assaulted by all the sides and therefore some of the assailants facing P.W. 1 and 2 and some of them would not be facing and therefore identifying the accused and the assailants, is totally erroneous and motivated. He also contended that if attack lasted for quite some time i.e. 10-15 minutes and there were 5 assailants then there should have been more injuries then four on the person of deceased Vithal. He also contended that there is absolutely no injury on the body of deceased Vithal that could have been caused by chain. He also contended that both the witnesses have made material improvements and therefore their story was liable to be rejected.

20. P.W. 5 Shivaji is son-in-law of deceased Vithal. He has stated that he and his wife were there in the house. He was sleeping after dinner but his wife was not sleeping as there were sheeps and apprehension of arrival of fox coming there.

His wife woke him up and told that there were shouts from her parental house and therefore both of them started going to the house of Vithal and they saw 5 men from a distance of 100 ft. All of them were armed with weapons and they are the accused. Witness identified the accused in the moon light as they were known. The witness has also stated that he heard acquitted accused No. 4 Narayan asking Aarsiraj and others to run away as people are arriving. He then reached the spot, opened the door by removing the bolt. P.W. 1 Pandurang and P.W. 2 Tulasabai came out and told about the assault.

21. Before considering the criticism levelled by Mr. Arjunwadkar on the evidence of these two witnesses, it will be better and necessary to find out what is the other evidence adduced by the prosecution against the accused. This evidence is in the form of recovery of weapons, clothes and other incriminating articles.

22. P.W. 3 Namdeo Vithoba Chougule is a witness on the two discovery memorandums of accused No. 1

Aarsiraj and accused No.2 Anna respectively. (It is to be clarified that some of the witnesses have referred to accused No.1 as Hansraj and some have referred to him as Aarsiraj and in the memo of appeal his name is typed as Aarsiraj). P.W. 3 has stated that on 15.10.1989 police called him in the Gram Panchayat office, accused No.1 Aarsiraj was present. He made statement that he would produce axe from the bundle of steins of Bajari behind the hut. His statement was recorded under panchnama Exhibit 53. Thereafter accused No.1 Aarsiraj led the police party to his hut and produced one axe which had blood stains. It was seized, sealed and panchnama was prepared Exhibit 54. He identified axe Article 12 bearing the label of the signature of panch witness.

23. Witness further stated that thereafter the police party came back to the Gram Panchayat Office, accused No.2 Anna was present there. He made a statement that he has concealed one stick in hushes of Takari. This was recorded by the police. Signatures obtained vide Exhibit 55. Accused No.2 Anna led the police party to his house and produced one stick which had stains of blood. It was seized

and panchnama prepared Exhibit 56. He identified the stick as Article No. 13.

24. There is absolutely no cross-examination worthy of consideration. Questions are asked to the witness about the time taken for each panchnama and lastly a suggestion given that none of the accused made any statement and he is giving false evidence. Obviously these suggestions were denied by the witness.

25. Then prosecution examined P.W. 4 Ramchandra Damodar Phadatre regarding the blood stained clothes recovered from the accused. He has stated that on 13.10.1989 he was called as a panch witness in Mangalwedha Police Station. Another panch was present. All the four accused were present including the present accused and Sitaram. They were arrested. The clothes on their person were seized. There were blood stains on their clothes, labels bearing the signatures were pasted on the clothes of each of the accused. Panchnama was prepared, signatures were obtained vide Panchnama Exhibit 58. He identified the clothes. Clothes were banian and dhoti. Clothes of acquitted accused

Sitaram were not seized. Then he also stated that clothes of the deceased as produced by police constable were seized under the panchnama. They were all blood stained. Another panch was present. He identified panchnama Exhibit 59 so also signature and clothes. Then clothes of one more acquitted accused No.4 Narayan were seized but since he is acquitted, we are not considering that evidence.

26. In cross-examination this witness stated that he has deposed as panch witness three times in Pandharpur Sessions Court, but he denied the suggestion that he was habitual panch of the police. He denied all the suggestions that his evidence is false. Absolutely nothing is brought on record to create doubt about his testimony.

27. The clothes of the accused Aarsiraj were one banian or bandi which usually villagers use and wear, it was having number of blood stains, one under wear having number of blood stains. From accused No. 2 - Anna his clothes of similar type bandi or banian and one dhoti both having number of blood stains were seized. From accused No.3 Eknath similar type of bandi or banian and one dhoti, both

having number of blood stains. Clothes of the deceased about which panchnama Exhibit 59 was prepared as stated above one dhoti with red border having blood stains at places and another dhoti of similar type with blood stains and one black thread tied around the waist usually put by people in villages.

28. All these incriminating articles were sent to C.A. and reports of C.A. are on record as proved documents. They are Exhibits 78 to 83.

. Exhibit 78 C.A. Report is about viscera report on the body of deceased Vithal, no poison is detected.

. Exhibit 79 C.A. Report is in respect of blood sample of accused No.1 Aarsiraj, his Blood group is found of ’B’ group after the analysis.

. Exhibit 80 C.A. Report is about the blood group of accused No.3 Eknath. Blood group ’B’ is found after the analysis.

. Exhibit 81 C.A. Report is about

incriminating articles recovered from the spot and the clothes of all the accused and weapon axe. Result of analysis of these articles is as under:

. Exhibit ’1’ - earth mixed with blood.

Exhibits 3, 4, 5, 7 & 8 Kopari, underwear, kopari, kopari and dhoti have moderate number of blood stains.

Exhibit 9 Kopari few blood stains.

Exhibit 10 and 11 dhotis innumerable blood stains.

Exhibit 13 axe stained with blood on blade and handle.

Then no blood is detected on Exhibit No.2.

Blood detected on exhibits 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 is human blood of ’B’ group, excluding Exhibit No.1 Blood group cannot be determined as the results are inconclusive.

. Exhibit 82 C.A. Report is about the blood group of accused No.2 Anna, it is 'B' blood group.

29. Apart from this, the prosecution also brought on record letter written by P.W. 1 Pandurang to the daughter of acquitted accused No. 4 Narayan. This letter was seized so also specimen of hand writing. All that evidence is of no use because that is not an issue.

30. The evidence of P.W. 5 was criticised by Mr. Arjunwadkar on the ground that this witness has identified the weapons, is totally wrong and false; he could not have heard accused talking with each other from such a long distance. We agree that the witness could not have seen the weapons from the distance of 100 ft. and therefore his identification in the court can be said to be an over enthusiasm on his part. We also find that he could not have heard any talk between the accused while they were running away but that does not create any doubt about his testimony. It is true that there is delay of 4 days in recording the statement. But looking at the role played by him,

delay cannot be said to be fatal. Had he been eye witness to the incident, then this delay would have affected the case of the prosecution. There are no circumstances to totally discard his evidence.

31. Now coming back to the criticism levelled by Mr. Arjunwadkar on the evidence of the eye witnesses, it has to be noted that the incident has occurred 2 days after Dasera. Purnima falls on the 5th day after Dasera, it is called Kojagiri Poornima. Therefore, admitteldy that was Shukla Paksh and since the incident has occured 2 days after Dasera, moon light would be sufficient for the purpose of identification. Secondly, three accused are well known to both the eye witnesses, even if the accused are seen by their face or from the back side. Thirdly, from the spot panchnama it is clear that blood was seen at a distance of 5 ft. from the northern window of the house through which P.W. 1 and P.W. No.2 saw the accused. Distance of 5 ft. is therefore short and for all these reasons, it cannot be said that the eye witnesses P.W. 1 and P.W. 2 were not in a position to see the assailants. There could not be any question of mistaken identity so far as these three accused are

concerned. It may be true that the so-called motive of dispute over well could not be said to be motive for the murder. It may also be true that the accused really had no grudge against the father and if they had any grudge it was against P.W. 1 Pandurang who was having illicit relations with the daughter of one of the acquitted accused No. 4 Narayan. However, we do not know whether the deceased who was sleeping in gotha or cattle shed had covered his face with bed sheet and therefore the accused could not identify him, i.e. whether he was P.W. 1 Pandurang or he was Vithal. But the fact remains that Vithal has been killed. P.W. 1 and 2 are most natural witnesses because the incident has happened just adjoining to their house and they could see through the window.

32. The evidence of P.W. 1 and P.W. 2 is corroborated by P.W. 5. He is not an eye witness to the actual assault but when he came running to the spot of incident, he saw the accused running away from the spot with weapons in their hand. Since P.W. 5 is son in law of deceased Vithal, there is nothing unnatural if he could identify the accused in the moon light. It is true that evidence

of Shivaji P.W. 5 that he identified the weapon from such a long distance, is an exaggeration but that does not affect the credibility of the witness.

33. P.W. 1 Pandurang has stated that when they opened the door and came out one of the accused tried to hold the neck of Pandurang and other accused assaulted his mother P.W. 2 Tulasabai. Even if this part of the story is disbelieved as exaggeration, the fact that they were put inside the house and accused bolted the door from outside and then P.W. 5 Shivaji, opened the door, cannot be said to be unnatural. Therefore, considering this aspect of the matter this is a case where P.W. 1, 2 and 5 were rightly relied upon by the trial court as witnesses to the incident.

34. So-called love affair between P.W. 1 Pandurang and daughter of one of the acquitted accused No. 4 Narayan, writing of letter by Pandurang and threats given by the mother of the girl to Pandurang, subsequent recovery of the letter and evidence of handwriting expert in that regard are of no consequence, in the sense, they do not take the case of the prosecution any where so far as

murder of Vithal is concerned. Therefore, we are not giving much importance to that aspect of the matter. We do not find any substance in the argument of Mr. Arjunwadkar that assault was going on for 15 minutes and if the assailants were five in number, there would have been more injuries then that is noted in the post mortem report. Injuries found on the body of Vithal tally with the weapons used and this gives corroboration to the testimony of P.W. 1 Pandurang and P.W. 2 Tulasabai that axe was used for assaulting Vithal.

35. This oral evidence gets strong corroboration by the evidence of recovery of the incriminating articles, viz., axe and the blood stained clothes on the person of the accused. There is absolutely no explanation much less a plausible explanation as to why the clothes of the accused Nos. 1, 2 and 3 and the axe recovered at the instance of the accused was having blood stains. We have discussed the evidence of recovery and the reports of the C.A. at length in the earlier paragraphs. The blood group of deceased Vithal was of 'B' group. Mr. Arjunwadkar contended that blood group of accused No.1 Aarsiraj and accused No.3 Eknath was also of 'B' group, but

that does not give any benefit to the accused. Because it is not the case of the accused that when they were arrested they had any injuries on their person. Therefore, the C.A. Reports and the discovery memorandum of the axe and other weapons, strongly corroborate and support the case of the prosecution so far as these accused are concerned.

36. Considering from any angle, the judgment of the trial court cannot be said to be perverse. The judgment is based on logic reasoning and factual aspect of the matter. The improvements or omissions made by P.W. 1 Pandurang and P.W. 2 Tulasabai in the evidence with reference to their police statements, do not create doubt about their veracity. Witnesses of discovery memorandum and seizure has supported the prosecution and they are corroborated by the evidence of I.O. and therefore we do not find any infirmity in the judgment of the trial court, therefore the appeal is to be dismissed.

37. In the result, we pass the following order:

ORDER

Appeal is dismissed.

(SMT. NISHITA MHATRE, J.) (D.G. DESHPANDE, J.)